

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff and Respondent,

v.

WHITNEY MARIE MIRANDA,

Defendant and Appellant.

B293115

(Los Angeles County
Super. Ct. No. MA074321)

APPEAL from a judgment of the Superior Court of Los Angeles County, Charles A. Chung, Judge. Affirmed.

Lori A. Nakaoka, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

FACTUAL AND PROCEDURAL BACKGROUND

Defendant and appellant Whitney Marie Miranda was found in possession of the identifying information of at least 15 persons, including, inter alia, their names, birth dates, social security numbers, bank account numbers, and passwords.¹ She was charged in a July 30, 2018 amended felony complaint with fifteen counts of acquiring or retaining possession of personal identifying information with intent to defraud (Pen. Code, § 530.5, subd. (c)(2))² and one count of acquiring or retaining possession of the personal identifying information of 10 or more other persons, with intent to defraud. (§ 530.5, subd. (c)(3).) At the time, Miranda was on probation in an unrelated case, Los Angeles Superior Court case No. MA073100.

On August 14, 2018, pursuant to a negotiated disposition, Miranda pled no contest to four counts of violating section 530.5, subdivision (c)(2) and one count of violating section 530.5, subdivision (c)(3). She also admitted suffering a prior conviction of section 530.5, subdivision (a). In exchange, the People agreed to a sentence of five years eight months and dismissal of the probation violation alleged in case no. MA073100 and the remaining counts, with Miranda's agreement to pay the victims' losses in both matters. Prior to entering her plea, Miranda was advised of and waived her rights to a preliminary hearing; to a jury or court trial; to confront, cross-examine, and subpoena witnesses; to present a defense; and against self-incrimination. She was further advised of the maximum exposure on the

¹ Because Miranda pled no contest prior to trial, we derive the facts from the probation report.

² All further undesignated statutory references are to the Penal Code.

charges, the consequences of the plea, including the immigration consequences, and that various fines and fees would be imposed upon her. She completed a plea form setting forth the terms of the negotiated disposition and waiving her rights. Miranda confirmed at the plea hearing that she had had the opportunity to speak with her attorney regarding the charges, defenses, penalties, and her rights; she was pleading freely and voluntarily because she believed it was in her best interest to do so; and no one had threatened her or made any additional promises to induce her plea. She also waived her right to be sentenced by the same judge who took her plea. (*People v. Arbuckle* (1978) 22 Cal.3d 749.) The trial court found the plea was freely and voluntarily made, and there was a factual basis for it.

In accordance with the plea agreement, the trial court sentenced Miranda to a term of five years eight months in prison and ordered her to pay victim restitution.³ The remaining 11 counts were dismissed. The court awarded Miranda 32 days of custody credit and 32 days of conduct credit, for a total of 64 days.

Miranda filed a timely notice of appeal. As far as the record reflects, she did not obtain a certificate of probable cause.

³ The trial court originally imposed a restitution fine, a suspended parole revocation restitution fine, a court operations assessment, and a criminal conviction assessment. According to appellate counsel's declaration and documents appended to the opening brief, subsequent to the original sentencing these fines and fees have been vacated pursuant to *People v. Dueñas* (2018) 30 Cal.App.5th 1157.

DISCUSSION

After review of the record, Miranda's court-appointed counsel filed an opening brief that raised no issues, and requested this court to conduct an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Appellant was advised that she had 30 days to submit by brief or letter any contentions or argument she wished this court to consider. Miranda has filed a supplemental brief.

Pursuant to section 1237.5 and California Rules of Court, rule 8.304(b), a criminal defendant who appeals following a plea of no contest or guilty, without a certificate of probable cause, may only challenge the denial of a motion to suppress evidence or raise grounds arising after the entry of the plea that do not affect the plea's validity. (*People v. Johnson* (2009) 47 Cal.4th 668, 676–677; *People v. French* (2008) 43 Cal.4th 36, 43.) With respect to sentencing or post-plea issues that do not in substance challenge the validity of the plea itself, we have examined the record and are satisfied no arguable issues exist and Miranda's attorney has fully complied with the responsibilities of counsel. (*People v. Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende*, *supra*, 25 Cal.3d at pp. 441–442.)

In her supplemental brief, Miranda complains that she asked her trial counsel to request from the trial court that she be given the opportunity to attend a drug rehabilitation program to address her methamphetamine addiction. Such a program would also have assisted her in retaining custody of her children, but defense counsel failed to make such a request. She also argues that her sentence amounts to cruel and unusual punishment. These contentions go to the validity of Miranda's plea and convictions, and are not cognizable at this juncture absent a

certificate of probable cause. (Cal. Rules of Court, rule 8.304(b); § 1237.5.) A certificate of probable cause is required when a defendant claims that she received ineffective assistance of counsel prior to the plea (*People v. Stubbs* (1998) 61 Cal.App.4th 243, 244–245), or that an agreed-upon sentence constitutes cruel and unusual punishment (*People v. Panizzon* (1996) 13 Cal.4th 68, 74, 78).

Miranda also avers that she felt “pressured and scared” into agreeing to the plea bargain to avoid the “maximum exposure of 13 years.” But prior to entering her plea, Miranda was advised of her rights and the consequences of the plea, including her rights to trial, to confront witnesses, and against self-incrimination. Miranda indicated she understood, and waived, these rights, both orally and in writing. The record thus shows Miranda’s plea was knowing, intelligent, and voluntary. (See *People v. Howard* (1992) 1 Cal.4th 1132, 1175; *People v. Mosby* (2004) 33 Cal.4th 353, 356 [proper advisement and waivers of constitutional rights in the record establish that a defendant’s admission is voluntary].) That Miranda pled because she was concerned about the possibility of a longer sentence does not indicate coercion or involuntariness.

DISPOSITION

The judgment is affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL
REPORTS**

EDMON, P. J.

We concur:

LAVIN, J.

EGERTON, J.